



Senate

General Assembly

February Session, 2006

File No. 294

Senate Bill No. 224

Senate, April 3, 2006

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING MUNICIPAL CONTRACT COMPLIANCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-148u of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) As used in this section:

4 (1) "Small contractor" means any contractor, subcontractor,
5 manufacturer or service company (A) which has been doing business
6 and has maintained its principal place of business in the state for a
7 period of at least one year prior to the date of application for
8 certification under this section, (B) which had gross revenues not
9 exceeding three million dollars in the most recently completed fiscal
10 year prior to such application and (C) at least fifty-one per cent of the
11 ownership of which is held by a person or persons who are active in
12 the daily affairs of the business and have the power to direct the
13 management and policies of the business.

14 (2) "Minority business enterprise" means any small contractor (A)
15 fifty-one per cent or more of the capital stock, if any, or assets of which
16 are owned by a person or persons (i) who are active in the daily affairs
17 of the enterprise, (ii) who have the power to direct the management
18 and policies of the enterprise, and (iii) who are members of a minority,
19 as such term is defined in subsection (a) of section 32-9n or (B) who is
20 an individual with a disability.

21 (3) "Individual with a disability" means an individual (A) having a
22 physical impairment that substantially limits one or more of the major
23 life activities of the individual or (B) having a record of such an
24 impairment.

25 (b) Notwithstanding any provision of the general statutes or of any
26 special act or any municipal charter or home rule ordinance, a
27 municipality may, by ordinance, set aside in each fiscal year, for award
28 to small contractors, on the basis of a competitive bidding procedure,
29 municipal contracts or portions of municipal contracts for the
30 construction, reconstruction or rehabilitation of public buildings, the
31 construction and maintenance of highways and the purchase of goods
32 and services. The total value of such contracts or portions thereof to be
33 set aside shall be not more than twenty-five per cent of the average of
34 the total value of all such contracts let by the municipality for each of
35 the previous three fiscal years, provided a contract that may not be set
36 aside due to a conflict with a federal law or regulation shall not be
37 included in the calculation of such average. Contracts or portions
38 thereof having a value of not less than twenty-five per cent of the total
39 value of all contracts or portions thereof to be set aside shall be
40 reserved for awards to minority business enterprises.

41 (c) Notwithstanding any provision of the general statutes or of any
42 special act or any municipal charter or home rule ordinance, each
43 municipality shall set-aside in each fiscal year, for award to small
44 contractors, on the basis of a competitive bidding procedures,
45 municipal contracts or portions of municipal contracts for public
46 works projects for the construction, reconstruction or rehabilitation of

47 public buildings and the construction and maintenance of highways if
48 the cost of such projects is paid for with any state funds. The total
49 value of such contracts or portions thereof to be set aside shall be not
50 more than twenty-five per cent of the average of the total value of all
51 such contracts let by the municipality for each of the previous three
52 fiscal years, provided a contract that may not be set aside due to a
53 conflict with a federal law or regulation shall not be included in the
54 calculation of such average. Contracts or portions thereof having a
55 value of not less than twenty-five per cent of the total value of all
56 contracts or portions thereof to be set aside shall be reserved for
57 awards to minority business enterprises.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2006	7-148u
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PD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	STATE MANDATE - Uncertain	See Below	See Below

Explanation

The bill sets a cap of 25% on the total value of contracts a municipality may set aside for small businesses for contracts that receive at least part of their funding from state sources. It is doubtful that this provision would increase the cost to municipalities for these projects because it is not expected to significantly reduce the number of businesses that are eligible to bid on municipal projects.

The language of the provision dealing with minority business enterprises (MBEs) is unclear because it could be interpreted to mean: (1) at least 25% of the amount awarded to small businesses must be set aside for MBEs or (2) at least 25% of the amount of all contracts awarded by the municipality must be set aside for MBEs. To the degree that this provision narrows the pool of businesses that are available to bid on municipal projects, it may increase the cost of these projects to municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
SB 224***AN ACT CONCERNING MUNICIPAL CONTRACT COMPLIANCE.*****SUMMARY:**

This bill requires rather than allows municipalities to set aside for small contractors, part of their contracts for public works and highway projects if any state funds pay for the cost. Municipalities must meet this requirement each fiscal year and the selected contracts must be chosen based on competitive bids. The total value of the small business set-aside can be no more than 25% of the average of the total value of all such contracts let by the municipality in each of the last three fiscal years. However, contracts that may not be set aside due to a conflict with a federal law or regulation cannot be included in the calculation of the average. Contracts having a value of at least 25% of the small business set-aside must be reserved for awards to minority business enterprises.

The bill's provisions supersede other provisions of the statutes, special acts, charters, or home rule ordinances.

EFFECTIVE DATE: October 1, 2006

SMALL AND MINORITY CONTRACTORS

Under the bill, a small contractor is a contractor, subcontractor, manufacturer or service company (1) that has been doing business and has had its principal place of business in the state for at least one year before the date it applies for small contractor certification, (2) that had gross revenues of no more than \$3 million in the last fiscal year before making its application, and (3) at least 51% of the ownership of which is held by a person or people who are active in its daily affairs and have the power to direct its management and policies.

Under the bill, a minority business enterprise is any small contractor (A) 51% or more of the capital stock, if any, or assets of which are owned by a person or people who (i) are active in its daily affairs, (ii) have the power to direct its management and policies, and (iii) are members of a minority or (B) are individuals with disabilities.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 15 Nay 1 (03/17/2006)